

Message

---

**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 10/16/2019 8:37:49 PM  
**To:** Hicks, Matt [Hicks.Matthew@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]  
**CC:** Morgan, James [Morgan.James@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]; Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Calli, Rosemary [Calli.Rosemary@epa.gov]  
**Subject:** RE: FL 404 delegation question  
**Attachments:**

**Ex. 5 AC/DP**

Removing Mike. Attached are some 'quick and dirty' proposed edits to the Region's analysis, and a statutory document. Thanks again.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Fisher, Mike <Fisher.Mike@epa.gov>  
**Sent:** Tuesday, October 15, 2019 6:33 PM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>  
**Cc:** Morgan, James <Morgan.James@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>  
**Subject:** RE: FL 404 delegation question

Thanks, Matt

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

# Ex. 5 AC/DP

Happy to talk tomorrow or Thurs. Thanks –

Mike

Michael R. Fisher  
Director, Legal Counsel Division  
Office of Criminal Enforcement, Forensics & Training  
U.S. EPA  
1200 Pennsylvania Ave. N.W.  
WJC South Room 1202D (Mail Code 2232A)  
Washington, D.C. 20004  
202 564 1063 (phone) : 202 501 0579 (fax)

Help EPA fight pollution - report environmental violations at <http://www.epa.gov/tips>

---

**From:** Hicks, Matt  
**Sent:** Tuesday, October 15, 2019 5:17 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Morgan, James <[Morgan.James@epa.gov](mailto:Morgan.James@epa.gov)>; Nagrani, Kavita <[Nagrani.Kavita@epa.gov](mailto:Nagrani.Kavita@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Calli, Rosemary <[Calli.Rosemary@epa.gov](mailto:Calli.Rosemary@epa.gov)>  
**Subject:** RE: FL 404 delegation question

Thanks Simma. Attached is a write-up that Kavita and I prepared which

Ex. 5 AC/DP

Ex. 5 AC/DP

Thanks,

Matt

Matthew L. Hicks  
Associate Regional Counsel  
EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
404-562-9670  
[hicks.matthew@epa.gov](mailto:hicks.matthew@epa.gov)

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Sent:** Tuesday, October 15, 2019 4:53 PM

**To:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Morgan, James <[Morgan.James@epa.gov](mailto:Morgan.James@epa.gov)>; Nagrani, Kavita <[Nagrani.Kavita@epa.gov](mailto:Nagrani.Kavita@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Calli, Rosemary <[Calli.Rosemary@epa.gov](mailto:Calli.Rosemary@epa.gov)>  
**Subject:** RE: FL 404 delegation question

Mike, Carrie, and JT,

To follow up on the email exchange below: per direction from senior leadership, Matt Hicks and Kavita Nagrani, attorneys in R4 ORC, cc'd, have had a series of discussions with attorneys from DEP to nail down DEP's views on its criminal enforcement authority.

## Ex. 5 AC/DP

Matt and Kavita, do you want to send out your analysis to the group?

JT, Mike and Carrie, should we work with R4 to set up a follow-up briefing for you all, as well as non-political management in OW and perhaps Steve N., before briefing senior leadership on Florida's response and next steps?

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>  
**Sent:** Tuesday, October 15, 2019 12:19 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** RE: FL 404 delegation question

Great – thanks, you two.

Michael R. Fisher  
Director, Legal Counsel Division  
Office of Criminal Enforcement, Forensics & Training  
U.S. EPA  
1200 Pennsylvania Ave. N.W.  
WJC South Room 1202D (Mail Code 2232A)  
Washington, D.C. 20004  
202 564 1063 (phone) : 202 501 0579 (fax)

Help EPA fight pollution - report environmental violations at <http://www.epa.gov/tips>

---

**From:** Kupchan, Simma  
**Sent:** Tuesday, October 15, 2019 12:10 PM  
**To:** Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>  
**Subject:** RE: FL 404 delegation question

Thanks, Carrie, and thanks, Mike, for forwarding.

Ex. 5 AC/DP

## Ex. 5 AC/DP

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Sent:** Tuesday, October 15, 2019 12:07 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>  
**Subject:** FW: FL 404 delegation question

Hi, Simma. Can you please let us know where the FL enforcement authority issue stands? Last I heard you and ORC did have some conversations with FL about this, and they were going to discuss internally....

Thanks.  
Carrie

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

---

**From:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>  
**Sent:** Tuesday, October 15, 2019 10:58 AM  
**To:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Messier, Dawn <[Messier.Dawn@epa.gov](mailto:Messier.Dawn@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** FL 404 delegation question

Hi you all – just checking in on the FL 404 delegation work. Below is an email that JT Morgan sent to Simma and OW on Friday, then shared with me.

Ex. 5 AC/DP

# Ex. 5 AC/DP

Happy to chat if you like – am around this week through COB Thurs. Otherwise, if you can shoot back a note letting me know where things stand (or who I should ask in OW or R4), I'd appreciate it.

Thanks --

Michael R. Fisher  
Director, Legal Counsel Division  
Office of Criminal Enforcement, Forensics & Training  
U.S. EPA  
1200 Pennsylvania Ave. N.W.  
WJC South Room 1202D (Mail Code 2232A)  
Washington, D.C. 20004  
202 564 1063 (phone) : 202 501 0579 (fax)

Help EPA fight pollution - report environmental violations at <http://www.epa.gov/tips>

---

**From:** Morgan, James  
**Sent:** Friday, October 11, 2019 11:05 AM  
**To:** Fisher, Mike <[Fisher.Mike@epa.gov](mailto:Fisher.Mike@epa.gov)>; Walker, Claude <[Walker.Claude@epa.gov](mailto:Walker.Claude@epa.gov)>  
**Subject:** FW: Our Call re: Florida this past Tuesday

## Ex. 5 AC/DP

---

**From:** Morgan, James  
**Sent:** Thursday, October 10, 2019 4:06 PM  
**To:** Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>  
**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** Our Call re: Florida this past Tuesday

# Ex. 5 AC/DP

# Ex. 5 AC/DP

J. T. Morgan, Attorney  
Environmental Protection Agency  
Office of Criminal Enforcement, Forensics and Training  
Legal Counsel Division  
Room 1204 C WJC South, Mail Code 2232A  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Telephone: 202-564-7684  
Fax: 202-501-0579

Attorney Work Product

Belief in climate change is optional, participation is not.

Help EPA fight pollution – report environmental violations at <http://www.epa.gov/compliance/complaints/index.html>